IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 10050 of 2005(U)

PETITIONER:

THOLUR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
P.O.PARAPPUR, THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

RESPONDENTS:

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1. THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

2. BIJU S/O. FRANCIS,
PUTHOOR HOUSE THOLUR VILLAGE, THRISSUR.

3. KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY ITS ENVIRONMENTAL ENGINEER
DISTRICT OFFICE, THRISSUR.

4. THE DISTRICT MEDICAL OFFICER,
THRISSUR.

5. THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM.

R2 BY ADV. SRI.K.P.JAYACHANDRAN
ADV.SRI.DILIP MOHAN
R4 & R5 BY GOVT. PLEADER SRI.THOMAS JOHN AMBUKEN
R3 BY ADV.SRI.BABU JOSEPH KURUVATHAZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.10050/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF ORDER DT.1.3.05 OF THE TRIBUNAL.

EXT.P2 – TRUE COPY OF APPEAL 74/04 FILED BY R2 BEFORE R1.

EXT.P3 – TRUE COPY OF REPORT OF THE ENVIRONMENTAL ENGINEER OF THE PCB, THRISSUR DT.27.9.04

EXT.P3(A) – TRUE COPY OF LETTER DT.14.12.04 SENT TO R2 BY R3

EXT.P4 – TRUE COPY OF COUNTER AFFIDAVIT BY PETR.

EXT.P5 – TRUE COPY OF JUDGMENT DT.19.2.03 IN OS.3223/00 OF II ADDL.MUNSIFF, THRISSUR.

EXT.P6 – TRUE COPY OF CIRCULAR DT.24.10.98

EXT.P7 – TRUE COPY OF REPORT OF BLOCK SUPERVISOR UNDER THE DMO, DT.21.2.2000

RESPONDENTS' EXTS:

EXT.R2(A) – TRUE COPY OF JUDGMENT IN OP.15813/01

EXT.R2(B) – TRUE COPY OF JUDGMENT IN O.P.38145/02

EXT.R2(C) - TRUE COPY OF APPLICATION DT.15.9.04

EXT.R2(D) – TRUE COPY OF DECISION OF PANCHAYAT COMMITTEE DT.12.11.04

EXT.R2(E) TRUE COPY OF CONSENT LETTER ISSUED BY ENVIRONMENTAL ENGINEER OF PCB.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.10050 OF 2005

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DATED THIS THE 26TH JUNE, 2007

J U D G M E N T

Very strenuous submissions were addressed before me by Smt.Chandrika on behalf of the learned counsel for the petitioner and all the submissions were resisted by Mr.Dilip Mohan, learned counsel for the 2nd respondent.

2. The issue is whether Ext.P1 order of the Tribunal for Local Self-Government Institutions is vitiated to such an extent as to warrant correction. I am of the view that the said question will have to be answered against the petitioner. At the same time, the grievance of the petitioner-Panchayat is that even now the 2nd respondent is conducting the piggery without obtaining Panchayat licence. The learned counsel for the 2nd respondent submits that it was when the Panchayat refused licence that the Tribunal was approached and the Tribunal passed Ext.P1 order. The Panchayat has not, in spite of Ext.P1, issued licence, submits counsel. The counsel for the petitioner submits that pollution problems arising from the conduct of the piggery in a unhygienic manner by the petitioner are very serious.

3. Having regard to the rival submissions addressed at the Bar, even as I refuse to interfere with Ext.P1 order in the supervisory

jurisdiction of this Court under Article 227 and confirm the same, I direct the Environmental Engineer of the Pollution Control Board in the District Office at Thrissur to conduct one more inspection with notice to the petitioner and also the 2nd respondent, and submit a report before the petitioner-Panchayat. Similarly, there will be a direction to the 4th respondent-District Medical Officer to facilitate a like inspection conducted by him of the premises of the 2nd respondent with notice to the 2nd respondent and the petitioner. Inspections as directed above will be conducted and reports submitted by the Environmental Engineer and the D.M.O. at the earliest and at any rate within six weeks of receiving copy of this judgment. Reports regarding inspection will be submitted to the petitioner by the Environmental Engineer and the D.M.O. with copies to the 2nd respondent. Once the reports are available, the petitioner-Panchayat will hear the 2nd respondent and take a decision keeping in mind all the observations in Ext.P1 order of the Tribunal and realising that the Tribunal's order has been confirmed by this Court. Decision as directed above will be taken by the Panchayat at the earliest and at any rate within one month of obtaining the reports.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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